

Memorandum



Date: November 30, 2004

Agenda Item No. 7(A)(1)(D)

To: Honorable Chairperson Barbara Carey-Shuler, Ed. D.
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "Burgess".

Subject: Resolution Approving Recommendations relating to the Local Small Car Rental Program at Miami International Airport

RECOMMENDATION

It is recommended that the Board adopt the attached resolution approving the Local Small Car Rental ("LSCR") Program.

BACKGROUND

In Resolution No. R-659-01, the Board approved the advertisement of one DBE Tier 1A "Interim Period" car rental concession agreement at Miami International Airport. "Interim Period" refers to the period between the time of award of a car rental concession agreement for in-terminal operations and the completion of the proposed Rental Car Facility ("RCF") to be located just east of LeJeune Road. The Federal Aviation Administration ("FAA") advised, however, that it did not recommend advertisement of such a position. Rather, the FAA stated, "we urge you to consider alternate means to assist small car rental companies, such as a race-neutral small business set-aside or other assistance programs for such companies." Accordingly, the Board approved Resolution No. R-851-01 directing that the Tier 1A position be held open until "presentation to this Board by the County Manager of a small business or other assistance program." The attached LSCR program was therefore developed. The program has been discussed with the FAA, which indicated no opposition to it.

Under the LSCR Program, a rental car company must be certified by the County's Department of Business Development. Certification may be granted only if the company's average annual adjusted gross revenues are not greater than \$21,500,000 averaged over the preceding past three years in accordance with the Small Business Administration (SBA) size standards, and if the personal net worth limitation does not exceed two million dollars (\$2,000,000.00). As described in a related item that is also included in this agenda, it is planned that a LSCR firm will fill the remaining Tier 1A position and this company will be eligible to receive the benefits of Tier 1A company¹ and to pay a reduced opportunity fee.

A handwritten signature in black ink, appearing to read "Burgess".

Assistant County Manager

¹ Tier 1A companies are allowed to operate in the inner lane of the lower vehicular drive of the Airport's Terminal Building and make use of a "two-position" ticket counter on the ground level of the Terminal Building.



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: November 30, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 7(A)(1)(D)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Agenda Item No. 7(A)(1)(D)

Veto _____

11-30-04

Override _____

RESOLUTION NO. _____

**RESOLUTION APPROVING LOCAL SMALL CAR
RENTAL PROGRAM FOR CAR RENTAL OPERATIONS
AT MIAMI INTERNATIONAL AIRPORT, AND
AUTHORIZING THE COUNTY MANAGER TO TAKE
APPROPRIATE STEPS TO PLACE SUCH PROGRAM
INTO EFFECT**

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and document, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY
COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board approves the Local Small Car Rental ("LSCR") Program in substantially the form attached to this Resolution, such program to apply to car rental operations at Miami International Airport, and authorizes the County Manager to take appropriate steps to place such program into effect.

The foregoing resolution was offered by Commissioner _____, who
Moved its adoption. The motion was second by Commissioner _____ and upon
being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson
Katy Sorenson, Vice-Chairperson

Bruno A. Barreiro
Carlos A. Gimenez
Barbara J. Jordan
Dennis C. Moss
Natacha Seijas
Sen. Javier D. Souto

Jose "Pepe" Diaz
Sally A. Heyman
Joe A. Martinez
Dorrin D. Rolle
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 30th day of November, 2004. This Resolution and contract, if not vetoed, shall become effective in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as
to form and legal sufficiency.

Thomas P. Abbott



By: _____
Deputy Clerk

**MIAMI-DADE COUNTY AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

LOCAL SMALL CAR RENTAL (LSCR) PROGRAM

**FOR THE PERIOD
NOVEMBER 1, 2004
THROUGH
OCTOBER 31, 2006**

SECTION I. POLICY STATEMENT

Miami-Dade County Aviation Department (MDAD) recognizes the importance of small businesses to the economic vitality of the Miami-Dade County area and further recognizes the contribution of small businesses to employment opportunities in the local area. Thus, it is in the best interest of Miami-Dade County and the community to help small businesses expand and grow.

MIA is one of the primary economic engines of Miami-Dade County and is undertaking unprecedented Capital Improvement Program (CIP) expansion projects to meet future traffic demands. In fiscal year 2003, total concession businesses at MIA amounted to \$353.1 million in gross revenues. Of this amount, eleven (11) car rental concessionaires reported annual gross revenues of \$231.9 million, or 66% of the total concession market at MIA. Of the eleven car rental concessionaires, only one was a local, small business firm that had \$3.2 million in gross sales, which is less than one percent (0.09) of the total gross concession revenues.

In order to improve the economic situation of small car rental companies and the current level of small business participation at MIA, MDAD has created the Local Small Car Rental (LSCR) Program ("Program"). The Program derives its origin from the Aviation Department's response to the Federal Aviation Administration's (FAA) suggestions as to how MDAD could increase its small business participation in the car rental concession program at the Airport. Additionally, the Aviation Department is presenting this LSCR Program in response to Resolution No. R-851-01 of the Board of County Commissioners, which directed that the remaining Tier 1A interim period on-airport car rental position should be held open until presentation to the Board by the County Manager of a small business or other assistance program.

Previously, the Board approved Resolution No. R-683-00 in which the Memorandum of Understanding (MOU) for car rental companies desiring to operate in the proposed Rental Car Facility (RCF) were authorized. Because the County needed to know the size of the RCF that would be needed, the County required car rental companies

desiring to operate in the RCF to sign MOU well in advance of the RCF construction. Twenty-two (22) companies signed the MOU by the deadline date. Therefore, only these twenty-two companies will be allowed to operate in the RCF when it is completed. Of the twenty-two companies, Resolution 683-00 recognized four (4) companies that were Disadvantaged Business Enterprise companies (All American, Family, Capital, and Royal Rent-A-Car).

In Resolution No. 851-01, the Board authorized the development of a race-neutral program to assist small car rental companies. The LSCR program was developed and has also been discussed with the FAA. The FAA has indicated no opposition to the program. The Resolution also permitted the County to advertise for a Tier 1A small car rental company position at the Airport during the Interim Period, i.e., the period prior to the opening of the RCF, for which the Tier 1A company will be permitted to (a) operate in the inner lane of the Lower Vehicular Drive, (b) select the fifth ticket counter position throughout the zones in the Terminal Building, and (c) pay a reduced fee of 4.5%. The LSCR program, therefore, establishes the operating and residency requirements of those small business car rental companies desiring to compete for the Tier 1A position during the Interim Period. The Tier 1A position will be awarded to the car rental company that meets the LSCR requirement and submits the highest minimum annual guarantee bid for the Interim Period position.

The LSCR program is designed to assist small car rental companies with their car rental operations in Miami-Dade County and to meet the following goals:

1. Promote the development of local small car rental businesses at MIA;
2. Ensure availability of firms to compete for the on-airport small car rental business opportunities; and
3. Promote economic vitality and employment opportunities in the Miami-Dade County area.

SECTION II. DEFINITIONS

1) "**Affiliate**" means any entity:

1. having the ability to exercise control over the firm under review;
2. under control by the firm being reviewed, or
3. under the common control with the firm under review. The affiliation rules promulgated by the Small Business Administration under 13 C.F.R. 121.103 may be used as a basis for affiliation analysis under this Program.

2) "**Certification**" means: The process by which an applicant is determined to be a Bonafide LSCR as determined by the County's Department of Business Development.

3) "**Domicile**" means: The principal place of business of an entity is in the "Local Area".

4) "**Aviation Director**" means: The MDAD Aviation Director or the person designated to act in her/his behalf.

5) "**Goods**" means: Personal property of all types, including, without limitation, equipment, tools, vehicles, materials, and office supplies.

6) "**Local Area**" means: The Primary Miami-Dade Statistical Area ("Miami PMSA"). This area, according to the United States Department of Census, includes the metropolitan areas of Miami-Dade County.

7) "**Local Small Car Rental**" or "LSCR" means: A business concern that is domiciled in the Local Area; meets the Revenue Limitations set forth in **Section II (#16)** below; is owned and controlled by one or more individuals whose Personal Net Worth does not exceed the Personal Net Worth Limitation; and is a signatory of the Memorandum of Understanding for the proposed Rental Car Facility at MIA.

8) "**LSCR Direct Contract**" means: A request or invitation for bids or proposals, which is limited exclusively to LSCRs.

9) "**LSCR Director**" means: The MDAD Associate Aviation Director for Minority Affairs.

- 10) **"Memorandum of Understanding (MOU)"** means: Memorandum of Understanding between Miami-Dade County and twenty-two (22) car rental companies covering their use of the proposed consolidated rental car facility (RCF).
- 11) **"Personal Net Worth"** means: The sum of the fair market value of the interests owned by an individual in all assets (if an asset is owned jointly as husband and wife, then fifty percent (50%) of the fair market value for that asset will be counted if only one spouse participates in the firm being reviewed) minus the debt of the individual (if debt is attributable to an asset owned jointly as husband and wife, then fifty percent (50%) of the debt will be counted if only one spouse participates in the firm being reviewed). For purposes of establishing Personal Net Worth, the following items will be excluded: 1) the equity in the individual's Primary Residence up to \$500,000; and 2) the equity or net worth of an individual in any businesses in which the individual is actively involved in the management and day to day operation.
- 12) **"Personal Net Worth Limitation"** means: (a) the maximum net worth that a sole proprietor of an LSCR company may possess; (b) the maximum collective net worth that all stockholders of an LSCR company operating as a corporation may possess; (c) the maximum collective net worth that all partners of an LSCR company operating as a partnership may possess; or (d) the maximum collective net worth that all the principals of whatever partnerships or corporations comprise an LSCR company operating as a joint venture may possess. For any of the foregoing types of LSCR business entities, the Personal Net Worth Limitation may not exceed two million dollars (\$2,000,000.00). For any other form of business entity in which an LSCR company may operate, the LSCR Director, with the approval of the Aviation Director, may establish the Personal Net Worth Limitations so that the LSCR company retains its small business character, consistent with the two million dollar Personal Net Worth Limitation for the LSCR business entities in 12(a) through 12(d) above. The Personal Net Worth ("PNW") Limitation will be reviewed annually by the LSCR Director and recommendations for adjustment presented to the Aviation Director.
- 13) **"Ownership and Control"** means: Individuals who do not exceed the Personal Net Worth Limitation, must own at least fifty-one percent (51%) of the business, and they must control and manage the operations of the business on a daily basis.
- 14) **"Principal place of business"** means: The LSCR's headquarters, or the place where the principal affairs and business of the firm are transacted as of the date of the Request for Proposal, Request for Bids or Request for Letters of Interest is published. This is the office where the LSCR's books are kept and where the partners, directors, officers, or managers assemble to discuss and transact the day-to-day business of the firm.



15) **"Services"** means: The furnishing of labor, time, expertise or effort, but does not include the rendition of professional services, employment or collective bargaining agreements, or the providing of a tangible end product.

16) **"Revenue Limitation"** means: the limitation of twenty-one million five hundred thousand dollars (\$21,500,000) for a small car rental firm's annual gross revenues averaged over the preceding three (3) years. The revenue limitation amount will be reviewed annually by the LSCR Director in accordance with the Small Business Administration (SBA) size standards and recommendations for adjustments presented and approved by the Aviation Director.

SECTION III. DESIGNATION OF A DIRECTOR FOR THE LSCR PROGRAM

The Associate Aviation Director for Minority Affairs has been designated as the Miami-Dade Aviation Department's LSCR Director. The address is Miami-Dade County Aviation Department, Minority Affairs Division, and P.O. BOX 592075, MIAMI, FL 33159-2075.

The LSCR Director will be responsible for managing MDAD's LSCR Program. The LSCR Director will conduct periodic surveys to determine whether MDAD's LSCR Program is achieving its objectives. Reports of the surveys will be the basis for appropriate action to correct deficiencies or make recommendations. Where action is prescribed, the LSCR Director will make appropriate recommendations to the Aviation Director.

The LSCR Director will also be responsible for:

1. Providing information to LSCRs on MDAD's contractual needs and future plans.
2. Evaluating the effectiveness of the LSCR Program.
3. Ensuring that the LSCRs benefit from the LSCR Program.
4. Ensuring that the LSCR list utilized by MDAD accurately reflects LSCRs available to compete for contracts.
5. Monitoring compliance with LSCR commitments throughout the performance period of contracts.
6. Performing related duties as assigned.

SECTION IV. PROCEDURES TO ENSURE THAT LSCRs HAVE A MEANINGFUL OPPORTUNITY TO COMPETE

In order to ensure that LSCRs have a meaningful opportunity to compete for both the Tier 1A position and on-going car rental operating rights at MIA, MDAD will take affirmative steps to facilitate their involvement. These steps include:

1. Notification to any of the twenty-two companies that signed the MOU of their potential eligibility of participating in the LCSR Program.
2. Conducting conferences to provide eligible firms with an opportunity to ask questions about LSCR requirements; LSCR firms will be encouraged to attend these conferences.

SECTION V. PROCEDURES TO ASCERTAIN ELIGIBILITY OF LSCRs

In order to ensure that only bona fide LSCRs benefit from the Program, certain information must be provided to MDAD and the Department of Business Development (DBD) and updated upon request during contract performance. This information will be used to verify the eligibility of LSCRs in accordance with the Program's requirements. Specifically, LSCRs must be certified by the Department of Business Development (DBD) as listed below:

1) CERTIFYING DEPARTMENT:

- a) DBD is the County Department responsible for certifying, decertifying and recertifying LSCRs and maintaining the Certification List. Application for certification can be obtained from DBD at the Court House Center, 175 N.W. 1st Avenue 28th Floor, Miami, Florida 33128-2119.
- b) A copy of the certification application and an explanation of the certification process can be obtained from DBD certification supervisor by calling Certification Office at (305) 349-5960 or by facsimile at (305) 349-5915.

2) CERTIFICATION PROCESS:

- a) Applicants for LSCR certification must have signed the certification application identified in Section V(1) above as well as any other documents identified by DBD.
- b) Interested parties may obtain the certification application from DBD and are encouraged to request an explanation of the certification process.
- c) The applicant shall complete the certification application and submit it with all requested documentation to DBD.
- d) All applicants for certification, including LSCRs seeking recertification, shall attend, if requested by DBD staff, an Eligibility Review Meeting to verify information that was submitted in the application and accompanying documents.
- e) All applicants for certification, including LSCRs seeking recertification, shall allow site visits by DBD staff to gain additional information regarding compliance with eligibility requirements.
- f) Certification is valid for a one (1) year period.

3) ELIGIBILITY REQUIREMENTS:

- a) A firm's eligibility to participate in the LSCR program shall be based on its meeting the criteria outlined in this LSCR program document.
- b) A firm's eligibility to participate in the LSCR program shall be based on two standards: Average Annual Adjusted Gross Revenues, and Personal Net Worth.
 - (1) The Average Annual Adjusted Gross Revenues of the LSCR firm may not be greater than twenty-one million five hundred thousand dollars (\$21,500,000.00) averaged over the preceding three (3) years or a lesser period of time if the firm has not been in existence for three years. This maximum Average Annual Adjusted Gross Revenues amount will thereafter be adjusted by MDAD annually in accordance with the Small Business Administration requirements.
 - (2) The Personal Net Worth (PNW) limitation as defined in Section II (12) above is Two Million Dollars (\$2,000,000.00).
 - i) For partnerships, joint ventures, or corporations, the \$2 million PNW limit is directed to those principals of such firms or the companies making up such firms that participate actively in the firm's day-to-day operations. If some of its owners or principals do not play an active role in the day-to-day operation of the firm, as determined by MDAD in its sole discretion, then MDAD may determine that the PNWs of those owners or principals shall not be added to the PNWs of the other owners or principals that do play an active role in the firm's activities.
 - ii) No firm shall be certified as an LSCR if the aggregate PNW of the owners or principals that play an active role in the day-to-day operations of the firm is more than Two Million Dollars (\$2,000,000.00). PNW statements of owners and principals shall be subject to audit.
- c) A firm participating in the LSCR program shall have an actual place of business in Miami-Dade County.
- d) A firm participating in the LSCR program must have the occupational licenses required to conduct business in Miami-Dade County.
- e) An LSCR firm must have majority of its current business generated within the local area of Miami-Dade County.

Any firm that believes that it has been wrongfully denied certification as an LSCR may file an appeal in accordance with Section IX below.

SECTION VI. ANNUAL ELIGIBILITY STANDARD REVIEW

- 1) The LSCR size limit is twenty-one million five hundred thousand dollars (\$21,500,000.00) in annual gross revenues averaged over the preceding three (3) years or over a lesser period of time if the firm has not been in business for three years. The average adjusted gross revenues will be reviewed annually by the LSCR Director in accordance with the Small Business Administration (SBA) size standards and recommendations for adjustments presented and approved by the Aviation Director.
- 2) The PNW Limitation is two million dollars (\$2,000,000.00) in accordance with the definition set forth in Section II (12) above. The PNW Limitation will be reviewed annually by the LSCR Director and recommendations for adjustments presented and approved by the Aviation Director.

SECTION VII. PROCEDURES BY WHICH MDAD MAY IMPLEMENT LSCR DIRECT CONTRACTS

MDAD's LSCR Director and DBD Director will determine whether each firm claiming LSCR status shall be approved as an LSCR firm and therefore eligible for the LSCR Program benefits, including eligibility for award of the Tier 1A Interim Period position.

LSCRs interested in the benefits of the Program must submit LSCR status verification in accordance with the instructions provided in the LSCR Program documents.

SECTION VIII. ASSIGNMENT, SUBLETTING, AND OWNERSHIP

The LSCR firms shall not assign, transfer, sublet, pledge or otherwise encumber its LSCR agreement without a written approval from MDAD. MDAD reserves the right to assign the use of the RCF in accordance with the requirements of this Program and of prior Resolutions of the Board of County Commissioners.

SECTION IX. APPEALS

- 1) In the event a firm is denied LSCR certification, DBD's Director shall promptly provide a written explanation of the basis for denial. A firm denied certification

may appeal the DBD Director's determination to the Aviation Director. The appeal must be filed in writing and within thirty (30) days after receipt of the written explanation of the basis for rejection from the DBD Director.

- 2) In the event MDAD's LSCR Director recommends that an LSCR Program participant is no longer eligible, such participant may appeal the determination to the Aviation Director within thirty (30) days of receipt of the notice of the LSCR Director's decision. The appeal shall be submitted in writing to the Aviation Director at MDAD, P.O. Box 592075, Miami, Florida 33159-2075.

SECTION X. EFFECTIVE DATE

This Program shall become effective upon its adoption by the Miami-Dade Board of County Commissioners.

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